



Fox Rothschild LLP
ATTORNEYS AT LAW

100 Park Avenue, Suite 1500
New York, NY 10017
Tel 212.878.7900 Fax 212.692.0940
www.foxrothschild.com

Donia Sawwan
Direct Dial: 212-878-7939
E-mail: dsawwan@foxrothschild.com

February 4, 2008

VIA FACSIMILE

Timothy J. Dunn, III, Esq.
Rebore, Thorpe & Pisarello, P.C.
500 Bi-County Blvd., Suite 214 N,
Farmingdale, New York 11735

**Re: Brownstone Agency, Inc. and Johnson & Murphy
v. Eugene J. Callaghan, John Gloistein, and E & J Agency, Inc.
Civil Action No.: 08-CV-0522 (LTS)(FM)**

Dear Mr. Dunn:

Enclosed please find the *Order* and *Order to Show Cause* issued by the Court in the above referenced-matter. As you will see, a pre-trial conference concerning the Order to Show Cause is scheduled on February 8, 2008 at 9:30 a.m..

Very truly yours,

Donia Sawwan

DFS:ar

Enclosures

cc: Dominick Bratti, Esq. (w/enclosure)

A Pennsylvania Limited Liability Partnership

CERTIFICATE OF SERVICE
(via Facsimile)

I hereby certify that on this date I caused a true copy of the Court's *Order* and *Order to Show Cause* to be served on Plaintiffs, via facsimile, to:

Timothy J. Dunn, III, Esq.
Rebore, Thorpe & Pisarello, P.C.
500 Bi-County Blvd., Suite 214 N,
Farmingdale, New York 11735

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: February 4, 2008


Donia Sawwan

FEB-01-2008 19:45

P.02

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Brownstone Agency, Inc.,

Plaintiffs,

-v-

No. 08 Civ. 522 (LTS)(FM)

Eugene J. Callaghan, et al.

Defendants.

ORDER TO SHOW CAUSE¹

On January 18, 2008, the Supreme Court of the State of New York, signed an order directing Defendants to show cause as to why an order should not be entered granting a preliminary injunction against Defendant, their agents, and employees from soliciting and contacting any customers, clients, brokers, agents, employees and associated contacts of the Brownstone Agency, Inc. and Murphy and Jordan, LLC. The order also directed Defendants to show cause as to why other types of relief should not be granted in Plaintiffs favor.

A pre-trial conference concerning the Order to Show Cause will be held on February 8, 2008, at 9:30 a.m in Courtroom 17C. Any opposition papers shall be served and filed, with a courtesy copy provided to Chambers, by February 6, 2008.

SO ORDERED.

Dated: New York, New York
February 1, 2008



LAURA TAYLOR SWAIN
United States District Judge

¹ The ECF system provides notice of the entry of this Order to each party that has both entered an appearance in this case and registered with ECF. The ECF-registered attorneys are responsible for providing notice to any co-counsel whose e-mail addresses are not reflected on the ECF docket for this case, and Plaintiff's counsel, upon receiving notice of this Order, is hereby ordered to fax or otherwise deliver immediately a copy to all parties who are not represented by ECF-registered counsel. A certificate of such further service shall be filed within 5 days from the date hereof. Counsel who have not registered for ECF are ordered to register immediately as filing users in accordance with the Procedures for Electronic Case Filing.

FEB-01-2008 19:46

P.03

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
Brownstone Agency, Inc.,

Plaintiffs,

-v-

No. 08 Civ. 522 (LTS)(FM)

Eugene J. Callaghan, et al.,

Defendants.
-----X

ORDER

WHEREAS, this action was commenced by the filing of a Notice of Removal on January 21, 2008, and the action was subsequently transferred to the undersigned; and

WHEREAS, the Court has reviewed such Notice of Removal to ascertain the basis for assertion of subject matter jurisdiction in this court; and

WHEREAS, such Notice of Removal asserts that the Court has jurisdiction based on diversity of citizenship (28 U.S.C. § 1332), but the Notice fails to allege the citizenship of the individuals and of the members of Plaintiff Murphy and Jordan. Where a party is a limited liability company (LLC), the LLC's citizenship is the same as that of each member, Strother v. Harte, 171 F. Supp. 2d 203, 205 (S.D.N.Y. 2001); and

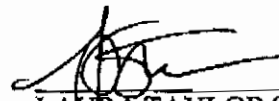
WHEREAS, "subject matter jurisdiction is an unwaivable *sine qua non* for the exercise of federal judicial power," E.R. Squibb & Sons v. Accident & Cas. Ins. Co., 160 F.3d 925, 929 (2d Cir. 1998) (citation omitted), and Rule 12(h)(3) of the Federal Rules of Civil Procedure provides that "[w]henver it appears by suggestion of the parties or otherwise that the court lacks jurisdiction of the subject matter, the court shall dismiss the action;" it is hereby

FEB-01-2008 19:46

P.04

ORDERED, that Defendants shall, no later than **February 15, 2008**, file and serve a Supplement to the Notice of Removal containing allegations sufficient to demonstrate a basis for subject matter jurisdiction in this Court or otherwise show cause in writing as to why this case should not be dismissed for lack of subject matter jurisdiction. Defendants shall promptly serve a copy of this Order on Plaintiff's counsel, and shall file a certificate of such service within 5 days from the date hereof.

Dated: New York, New York
February 1, 2008



LAURA TAYLOR SWAIN
United States District Judge